

Ms. Lauren Bisnett - Public Affairs Office
P.O. Box 942836
California Department of Water Resources
Sacramento, California 94236

Re: Draft Emergency Regulations for Groundwater Sustainability Plans and Alternatives – Interbasin Agreements

Dear Ms. Bisnett,

The Merced Irrigation District (MID, District) is submitting this letter independently of its more comprehensive comments to the Draft Emergency Regulations for Groundwater Sustainability Plans and Alternatives (“Draft Regulations”) due to its urgent and emphatic concern regarding the lack of guidance on interbasin coordination. This lack of guidance will lead directly to disputes between neighboring Groundwater Sustainability Agencies (“GSA”) and likely result in findings that otherwise compliant Groundwater Sustainability Plans (“GSP”) will be found non-compliant through no fault of either GSA and require DWR to resolve disputes. MID requests DWR to immediately reconsider its proposed emergency rule on interbasin agreements with respect to implementation of GSPs to provide greater guidance to adjacent basins with cross-boundary flow.

MID recognizes that the intent of the Sustainable Groundwater Management Act (“SGMA”) is to provide local agencies with optimal ability and flexibility to achieve sustainable groundwater management by weighing various influencing factors. MID also appreciates that many contiguous basins are separated by a hydrological boundary or have little to no groundwater interaction across the basins’ boundary, potentially making an interbasin agreement in such situations superfluous. However, DWR’s draft rules making interbasin agreements voluntary across the board (see Rule 357.2) and defaulting to the dispute resolution mechanism fails to provide adequate guidance or impetus to neighboring basins with cross-boundary flow to resolve their differences voluntarily. As explained below, in our view the Draft Regulation is too broad and does not necessarily fulfill the intent of the law in every case.

For example, in the case of the Merced Groundwater Basin:

- 1- DWR declared the Merced Groundwater Basin Critically Overdrafted in 2015. Subsidence in the Merced Groundwater Basin was listed as the basis for DWR’s declaration. Subsidence in the area started in the adjacent southern and western basins. The subsidence is generally limited to areas along the border between the Merced and Chowchilla basins, and our local groundwater basin is impacted by activities across the basin boundaries.
- 2- Since the Merced Groundwater Basin has been identified as critically overdrafted, the basin has to complete a GSP by 2020. The basin is bounded by the Critically Overdrafted basins of Chowchilla and Delta-Mendota to the South and West, respectively, which also have to complete their GSPs by 2020. However, Merced Groundwater Basin also flows into the Turlock Groundwater Basin to the north which is not a Critically Overdrafted basin and which does not need to complete its GSP until 2022.

- 3- Groundwater contours generated by the DWR Groundwater Information Center suggests that groundwater is likely moving from the Merced Groundwater Basin to surrounding basins.

Given current groundwater basin designations and DWR's proposed coordination rule, DWR would not be in position to make a final determination on the adequacy of the Merced Groundwater Basins GSP until the Turlock Groundwater Basin GSP is complete two years after the Merced GSP is completed. Without the need for an interbasin coordination agreement, stakeholders in each of the referenced groundwater basins will lack the information needed to ensure sustainability in their own respective basins. Even worse, the end result will be a group of GSP's that will be submitted to DWR that almost certainly will not achieve the goal of sustainability because of the lack of coordination. For example, with groundwater leaving the Merced Groundwater Basin to the south, how can any GSP in the Merced or Chowchilla Groundwater Basins establish thresholds to avoid undesirable results without a coordinating agreement with the adjacent basin? This is an exercise in futility and a waste of limited public agency resources.

This result can be avoided by developing guidance with respect to interbasin coordination agreements that meets the goals and intent of the law. Stakeholders and the economy in the Merced Groundwater Basin, which contains the majority of residents in Merced County, cannot afford a rejected plan in 2020 due to a lack of mandatory agreements between the interbasin parties.

MID asks that DWR reconsider its proposed regulation on interbasin agreements. One potential solution might be to mandate interbasin coordination agreements in situations where (a) there is a Critically Overdrafted basin with subsidence, (b) the GSA responsible agency(s) in that basin request assistance and (c) DWR has provided notice to these entities of cross-boundary flow issues that cause or contribute to sustainability problems. If DWR continues to opt towards the flexibility that the general rule for voluntary interbasin coordination agreements would provide, DWR should provide far more guidance in the Draft Regulations regarding how to address cross-boundary flow issues in the GSP, what elements need to be taken into account in achieving sustainability when loss of groundwater is the result of third-party actions and but for the cross-boundary flow the basin would be sustainable. In practice, GSA responsible agency(s) within the Merced Groundwater Basin could make such a request for an interbasin coordination agreement with any/all of the 3 adjoining basins (e.g., Turlock, Chowchilla, Delta-Mendota basins).

The proposed change in the case of Critically Overdrafted basins holds up local control no less than the current proposed voluntary interbasin agreements across basins with no groundwater interaction. Your prompt response is duly appreciated.

Very truly,



Hicham Eltal

Deputy General Manager, Water Rights/Supply

Cc Paula Landis- California Water Commission
Tom Howard- State Water Resources Control Board